

REMARKS

This paper is intended as a full and complete response to the Final Office Action dated August 10, 2007, having a shortened statutory period for response set to expire on November 10, 2007. Applicant respectfully requests entry and consideration of the following amendments and remarks. Applicant has further filed a Request for Continued Examination “RCE” with this Response.

Claims 1, 5, 7-9, and 13 are currently pending in the Application.

Claim 1, 5, 7, 8, and 13 are currently amended in this Response.

Claims 4, 6, 12, and 14 are cancelled in this Response.

Claims 2, 3, 10, and 11 were previously cancelled.

Claim 9 was previously amended.

I. Claim Objections

The Office Action objected to Claims 1 and 7 due to informalities.

Applicant has amended Claim 1 to reference “a first hook” and “a second hook” and has made corresponding amendments to Claims 5, 8, 13, and has cancelled Claim 14.

Applicant has amended Claim 7 to remove the references “other substantially similar fruits” and “substantially similar vegetables.”

II. Claim Rejections – 35 USC § 103

The Office Action rejected claims 1, 4-9, and 12-14 under 35 USC § 103(a) as being unpatentable over *Westmoland* (5,201,579) in view of *Furlong* (2,244,944), in further view of *Johnson* (6,619,816).

Applicant's Claim 1, as amended, teaches an advertising apparatus for produce vendors consisting of a pair of earrings, each earring consisting of at least one earring clip, a first and second hook axially secured to a line, wherein the second hook is axially aligned with the first hook, and wherein each hook has at least a first prong for engaging at least two different edible food items. (Applicant's Claim 1, as amended) At least two different edible food items can be secured to the hooks by at least partially penetrating the edible food items. (Applicant's Claim 1, as amended) An automatic LED is disposed on a lower portion of the earring clip, wherein the automatic LED is electrically insulated from the earring clip, and wherein the automatic LED is a blinking LED light for attracting attention and illuminating the at least two different edible food items. (Applicant's Claim 1, as amended)

Applicant's Claim 8, as amended, teaches an advertising apparatus for candy vendors, consisting of a pair of earrings, each earring consisting of at least one earring clip, a first and second hook axially secured to the line, wherein the second hook is axially aligned with the first hook, and wherein each hook has at least a first prong for engaging at least two different chewy candy items. (Applicant's Claim 8, as amended) At least two different chewy candy items can be secured to the hooks by at least partially penetrating the chewy candy items. (Applicant's Claim 8, as amended) An automatic LED is disposed on a lower portion of the earring clip, wherein the automatic LED is electrically insulated from the earring clip, and wherein the automatic LED is a blinking LED light for attracting attention and illuminating the at least two different chewy candy items. (Applicant's Claim 8, as amended)

Westmoland describes lighted or illuminated jewelry, in which the jewelry item itself is part of an electrical circuit. (*Westmoland*, Column 1, Lines 5-8) A lighting element having electrically conductive leads is connected to the jewelry body, which includes plate members spaced apart with electrically conductive means, and a battery is sized to fit between the plate members. (*Westmoland*, Column 1, Lines 30-43) The assembly of the jewelry completes an electrical circuit. (*Westmoland*, Column 1, Lines 43-48)

Westmoland teaches an invention that provides an article of jewelry in which “the entire ornamental structure of the jewelry forms the electrical contacts for connection to a battery.” (*Westmoland*, Column 1, Lines 63-65) The plates of the jewelry body are formed from an electrically conductive material to which a battery and lighting elements are directly attached. (*Westmoland*, Column 3, Lines 27-35) *Westmoland* does not teach an invention that blinks to draw attention as an advertising display.

Applicant’s advertising apparatus for produce vendors and candy vendors include at least one earring clip and an automatic LED, wherein the automatic LED is electrically insulated from the earring clip, and wherein the automatic LED has a blinking LED light for attracting attention to at least two different edible food items. (Applicant’s Claim 1, as amended) Applicant’s advertising apparatus for candy vendors includes earrings having at least one earring clip and an automatic LED, wherein the automatic LED is electrically insulated from the earring clip, and wherein the automatic LED is a blinking LED light for attracting attention and illumination the at least two different two different edible food items and to at least two different chewy candy items. (Applicant’s Claim 1 and Claim 8, as amended)

As shown in Applicant's Figure 2, a LED light (16) having a switch (20) secured to an earring clip (10) is depicted. (Applicant's Figure 2 and Paragraph [00013], as filed) As shown in Figure 2, neither earring clip (10) nor any of the hooks (12, 22, 24) form a completed electrical circuit, nor are any parts of Applicant's advertising apparatus intended to create an electrical circuit.

Electrical current flowing through earring clip (10) or any of the hooks (12, 22, 24) can cause discomfort or injury to a wearer of Applicant's advertising apparatus or damage to an item secured to one of the hooks. Through use of an automatic LED that is electrically insulated from the earring clip that does not rely on any part of the advertising apparatus to create an electrical circuit, Applicant avoids the risk of injury, discomfort, or damage, and avoids the costs, design difficulties, and aesthetic drawbacks associated with the manufacture of an advertising apparatus containing additional parts and mechanisms for ensuring wearer safety from electrical current.

Additionally, the illumination of Applicant's advertising apparatus using a LED does not rely on proper assembly and positioning of multiple external and internal components, as taught by *Westmoland*. Damage to jewelry that performs the additional function of an electrical circuit can hinder or destroy conductivity and can break necessary contacts between one or more parts. Damage to Applicant's advertising apparatus, such as bending one or more hooks or earring clips will not impair the function of the automatic LED or the overall function of the advertising apparatus.

Further, Applicant's use of a blinking LED to simultaneously illuminate and attract attention toward two different edible food items or two different chewy candy items is uniquely

suited for use as an advertising apparatus. *Westmoland* does not teach use of blinking LEDs for the purpose of simultaneously illuminating and attracting attention toward two different objects attached to an earring.

Furlonge describes jewelry having a substantially direct connection between artificial flowers and a chain, whereby the flowers are supported in close proximity to the chain. (*Furlonge*, Page 1, Left Column, Lines 4-9) A bud 2 is illustrated, terminating at its base with a wire stem or foundation piece 7, which is bent around a link 8 of chain 1, then bent on itself 9. (*Furlonge*, Page 1, Left Column, Lines 43-48) *Furlonge* also describes a clasp 27 with jaws 28 and 29 having raised portions 31 and 32 for frictionally preventing a link 30 from slipping from the jaws. (*Furlonge*, Page 2, Left Column, Lines 19-23)

Furlonge does not teach a hook that penetrates an artificial flower. *Furlonge* instead describes a wire that extends from the base of an artificial flower, is bent around a link of chain, then bent on itself. (*Furlonge*, Page 1, Left Column, Lines 43-48) *Furlonge* also describes a clasp having jaws and raised portions for acting as a spring clasp for a link. (*Furlonge*, Page 2, Left Column, Lines 19-23 and 33-35) Further, *Furlonge* does not teach two hooks in axial alignment, as taught by Applicant, nor does *Furlonge* teach a hook having at least a first prong and a second prong for simultaneously engaging two different items. Further, *Furlonge's* artificial flowers are not edible, a feature of the invention.

Applicant's advertising apparatus uses two or more hooks in axial alignment with each other and each hook having at least a first prong to at least partially penetrate edible food items and chewy candy items. (Applicant's Claim 1 and Claim 8, as amended) Unlike the bent wire used to wrap around a link, described by *Furlonge*, Applicant's use of hooks to penetrate secured

items permits items to be easily removably, while securely secured to the advertising apparatus or removed in a single step, allowing a user to rapidly and easily interchange secured items, even while the advertising apparatus is worn.

Applicant's use of hooks having at least a first and a second prong enables different items to be simultaneously secured, providing Applicant's advertising apparatus with the unique ability to display multiple items at the same time.

Additionally, unlike the clasp or bent wire taught by *Furlonge*, Applicant's use of hooks requires a minimal amount of manual dexterity to secure and interchange items, allowing small children, elderly persons, and persons having physical disabilities to use Applicant's advertising apparatus rapidly and with ease.

Applicant's use of hooks also allows items to be pierced and still retain their shape. (Applicant's Paragraph [00015]) Use of a wire to wrap around a chewy candy item, or edible food item, or use of a clasp to secure a chewy candy item or edible food item can squeeze, compress, bruise, or otherwise damage and distort the shape of the secured item, impairing the use of the item as an advertising apparatus. Applicant's use of hooks allows an item to be only minimally damaged when secured, sustaining a single pierce, without altering the shape of the item.

Johnson describes a confection assembly having a light device, a light transmission element attached to the light device, and an edible confection attached to the light transmission element. (*Johnson*, Column 2, Lines 18-20) The light transmission element 14 is depicted as a tubular member having an inner dimension chosen to provide a snug fit over a light device 16.

(*Johnson*, Column 3, Lines 47-52) Light passes from the light device through the light

transmission element into the confection, illuminating the confection from within. (*Johnson*, Column 2, Lines 20-14)

The illuminated confection assembly described by *Johnson* includes an edible confection attached to a light transmission element, that is in turn attached to a light device. (*Johnson*, Claim 1, and Column 3, Lines 43-47) *Johnson* does not teach piercing the confection with one or more hooks to removably secure the confection, but instead teaches a mounting hole 26 at the bottom of the confection for permitting the insertion of the light transmission element 14. (*Johnson*, Column 4, Lines 34-38)

Use of hooks to removably secure edible items by at least partially piercing the item, as taught by Applicant, does not require an edible food item or chew candy item to be specially prepared with mounting holes or other means for securing the item. Applicant's advertising apparatus can be used to removably secure any readily available produce item or chewy candy item without modifying the item to be secured.

Additionally, the creation of a sizeable mounting hole for insertion of a light transmission element, as taught by *Johnson*, is not suitable for most fruits and vegetables, which can become damaged and deformed by the creation of large holes. Use of hooks, as taught by Applicant, allows an item to be only minimally damaged when removably secured, sustaining a single pierce, without altering the shape of the item.

Further, *Johnson* describes an illuminated novelty confection that illuminates a confection from within, the confection having an interior portion that is adapted and constructed to receive light. (*Johnson*, Claim 1 and Column 2, Lines 20-23) An interior illumination hollow 28 within a confection is described, as is a confection 12 that is opaque having holes or

transparent or translucent portions to allow light to be emitted. (*Johnson*, Column 4, Lines 39-47)

The internal illumination taught by *Johnson* is not suitable for illuminating entirely opaque edible items, such as fruits, vegetables, and many chewy candy items, without specially preparing an item by forming interior hollow areas and/or holes or translucent exterior areas to allow light to be emitted through the secured item. The creation of interior and exterior holes and hollow areas can cause many chewy candy items and edible food items, especially fruits and vegetables, to lose their shape and become visibly unappealing. Applicant's advertising apparatus teaches external illumination of edible food items and chewy candy items performed by removably securing the items to one or more hooks, allowing opaque items to be illuminated effectively without requiring special preparations or damaging the items to be secured.

Johnson also fails to teach use of hooks having at least a first prong and a second prong for engaging at least two different edible food items or chewy candy items simultaneously. The light transmission element described by *Johnson* is unsuitable for displaying two or more different items at the same time. Applicant's use of hooks having two or more prongs, allowing the simultaneous display of two different items, illuminated by blinking LED lights which attract attention to the displayed items, is uniquely advantageous for use as an advertising apparatus.

Claims 5 and 7 depend upon Independent Claim 1 and contain all the limitations thereof. Because Applicant believes that Claim 1, as amended, overcomes the cited art, Applicant believes that Claims 5 and 7 also overcome the cited art.

Claims 9 and 13 depend upon Independent Claim 8 and contain all the limitations thereof. Because Applicant believes that Claim 8, as amended, overcomes the cited art, Applicant believes that Claims 9 and 13 also overcome the cited art.

Applicant appreciates the Examiner's time and attention to this matter. Applicant believes no new matter has been added with any amendments that have been made. Applicant believes claims as now provided are in condition for allowance. Reconsideration of this application is respectfully requested.

Respectfully submitted,



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